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09/731,115	12/06/2000	M. Scott Reichardt	UV-174	9203

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EXAMINER

HUYNH, SON P

ART UNIT PAPER NUMBER

2623

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/731,115	<b>Applicant(s)</b> REICHARDT ET AL.	
	<b>Examiner</b> Son P. Huynh	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006 and 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,18-29,31-36,46-57,59-64 and 74-84 is/are pending in the application.
- 4a) Of the above claim(s) 25-28,53-56 and 81-84 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,18-24,29,31-36,46-52,57,59-64 and 74-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 17, 2006 has been entered.

### ***Election/Restrictions***

2. Applicants' election of Group I, Species 1, claims 1, 3-8, 18-24, 29, 31-36, 46-52, 57, 59-64, 74-80 for continued examination (response to restriction requirement filed 06/19/2006, page 1, paragraph 1) is acknowledged.

### ***Response to Arguments***

3. Applicant's arguments filed 03/17/2006 with respect to amended claims 1,3-8, 18-24, 29, 31-36, 46-52, 57, 59-64, 74-80 have been fully considered but they are not persuasive.

Applicant argues regarding claims 1, 3-8, 29, 31-36, 57, 59-64 as amended, that the claimed invention patentably improves upon Alexander by "providing, in a second display that replaces the first display, the passive video product and interactive content from the provider in response to a user selecting the branded selectable option from the first interactive application display (and whereby additional information on the interactive content is provided in response to the user selecting the interactive content)." (Page 22, paragraph 2).

In response, this argument is respectfully traversed. Alexander discloses an interactive program guide screen for displaying multiple icons (title/ad panel, etc.) of providers such as providers for CBS, ESPN, FOX, etc. (figure 5). The program guide screen also comprises PIP window for displaying video program being tuned (figure 5). A the interactive program guide can be displayed as an overlay of the video television programming (col. 7, lines 19-30). Alexander further discloses ad windows or the Panel ads for displaying advertisement such as ad for current or further television program (see include, but are not limited to, col. 4, lines 28-43; col. 5, lines 5-15; col. 10, lines 16-30; col. 13, lines 50-55; col. 14, lines 1-9). The advertisement may contain graphics. Channel ad graphics will typically, but not necessarily, be limited to the channel logo portion of the ad (col. 24, lines 41-52). When the user select an interactive icon in the screen such as a ad on the ad window/ad panel, or an icon on the program screen, the video program associated with the selected ad, selected icon is played on the PIP window or full screen (see include, but are not limited to, figure 5, col. 4, lines 28-43;

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col. 5, lines 5-15; col. 10, lines 16-30; col. 13, lines 50-55; col. 14, lines 1-9, col. 17, lines 40-65, col. 19, line 38-col. 20, line 12, col. 21, lines 39-45, col. 25, lines 27-31).

The interactive content may be supplied from the provider/broadcast over VBI to the viewer's system (col. 8, lines 49-64; col. 19, lines 38-45). Thus, the claimed feature "providing, in a second display replacing the first display, the passive video product and interactive content from the provider in response to a user selecting the branded selectable option from the first interactive application display" is met by Alexander's disclosure of providing, in the display after the ad/icon is selected/highlight replacing the display before the ad/icon/provider is selected/highlighted, the video television programming (e.g. video associated with selected/highlighted icon displayed in PIP window) and interactive content (i.e. interactive content provided in VBI and associated with the selected/highlighted icon) from the provider in response to a user selecting/highlighting the icon/ad/provider, etc. displayed on the program guide screen before the ad/icon/provider is selected/highlighted); and "whereby additional information on the interactive content is provided in response to the user selecting the interactive content" is interpreted as detail/additional information is provided in response to user selection of interactive icon/ad/provider – see including, but is not limited to, col. 17, line 40-col. 19, line 45).

Applicant further argues regarding claims 18-24, 46-52, 74-80 that independent claims 18, 46 and 74, are patentable over Alexander because the claimed invention patentably improves upon Alexander by providing, in response to user selection of the alert icon,

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an interactive display on the user equipment that includes an advertisement associated with the brand of the currently displayed branded passive programming (page 23, paragraph 2). Applicant also argues the distinction between the brand of passive programming and content (page 23, paragraph 3, lines 8-18).

In response, this argument is respectfully traversed. The claims do not recite the distinction between the brand of passive programming and content. Instead, the claims recite, "providing an interactivity display on the user equipment in response to the user selection, wherein the display comprises an advertisement associated with the brand of the currently displayed branded passive programming" (claim 18, lines 14-17).

Alexander discloses displaying on the user television equipment (user display screen) plurality of alert icons such as on screen notifications icon, or interactive icons for additional information, theme icons, etc. on Channel Guide/Grid Guide simultaneously with program such as video television programming currently displayed on the screen (col. 7, lines 19-30), on screen notifications/interactive icons can be used to alert the viewer to any number of possible items of information such as television program currently broadcast on another channel, additional information/advertisement/website associated with the band/provider/network, theme that provide the television program (see including, but are not limited to, figures 1, 3, 5, 9-10B; col. 4, lines 27-43; col. 5, lines 5-15; col. 7, lines 45-56, col. 13, lines 45-67, col. 14, line 47-col. 15, line 39, col. 17, line 40-col. 19, line 45, col. 21, lines 39-44, col. 25, lines 27-32). Alexander further discloses while watching the news program, the news broadcaster describes an event

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involving astronauts. The viewer selects the news guide/data service icon and connects to a web site on the Internet describing, among other things, additional information about the particular event involving the astronauts (col. 18, lines 33-67). Alexander further discloses a translucent overlay of the window 12 can display the title, channel, etc. over the television program so the viewer can still see the entire image (col. 3, lines 55-62). Thus, Alexander discloses displaying an alert icon overlaid on the currently displayed branded passive programming (e.g. displaying on screen notification or any interactive icons in interactive "channel guide" overlaid on the video television program, wherein the video television program is associated with the channel guide, theme, provider, etc.); providing an interactivity display on the user equipment in response to the user selection (providing a display with interactive icons such as information icon, ad icons, link icon, program selection icon, etc. on user equipment (10) in response to user selection of on screen notification icon or user selection/highlight any interactive icon on Channel Guide wherein the channel Guide is overlay the video television programming – figures 1, 3, 5), wherein the display comprises an advertisement associated with the brand of the currently displayed branded passive programming (the display after the icon/ad/provider/on screen notification is selected/highlighted) comprises an advertisement (in ad window or in ad panel, web site, additional information, chat room, etc.) associated/related with the theme, Channel Guide, etc. of the displayed video television programming.

For reasons give above, rejections on claims 1, 3-8, 18-24, 29, 31-36, 46-52, 57, 59-64, 74-80 are analyzed as discussed below.

Claims 25-28, 53-56, 81-84 have been withdrawn.

Claims 2, 9-17, 30, 37-45, 58, 65-73 have been canceled.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-8, 18-24, 29, 31-36, 46-52, 57, 59-64, 74-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (US 6,177,931).

Regarding claim 1, Alexander teaches a method for providing access to a passive video product (television program or advertised product) and interactive content (e.g. icon/advertisement/detail information) from an interactive application (interactive program guide on screen 10 – figures 1, 5, 9), comprising:



providing a branded selectable option having a product brand logo graphic of a provider of the passive video product and interactive content (providing an EPG screen with selectable interactive ads windows 14,16, Grid guide 22 with interactive icons having logo graphic of a provider e.g., FOX, CBS, etc. that provides passive program (e.g. news program/ad, television program, etc.) and interactive content (e.g., web address, ad information, detail information, etc.– see including, but are not limited to, figures 5, 9-10, col. 24, lines 45-55; col. 13, lines 50-55) within an interactive application display (within interactive program guide before the ad/icon/provider is selected/highlighted- figure 1);

providing, in a second display replacing the first display (interpreted as the display after the new icon/ad/provider, etc. is selected/highlighted that replacing previous display – figure 5, col. 13, lines 61-67, col. 14, line 48-col. 15, line 31, col. 18, lines 13-67), the passive video product and interactive content from the provider in response to a user selecting the option from the interactive application display is met by providing television program and interactive content such as icon of detail information, icon of provider, web address, etc., that is associated with the selected/highlighted icon/ad/provider, from the provider such as advertiser, CBS provider, FOX provider, etc. in response to a viewer selecting/highlighting an icon/ad window from the interactive program guide (see include, but are not limited to, col. 4, lines 13-61; col. 5, lines 5-14; col. 8, lines 4-17, lines 45-64; col. 10, lines 43-51, col. 13, lines 46-67; col. 14, line 47-col. 15, line 31; col. 18, line 15-col. 19, line 45);

“providing additional information on the interactive content in response to the user selecting the interactive content” is met by providing detail information in response to user selection of the ad/provider/channel/title icon or providing additional detail information in response to user selection of the detail icon (see include, but are not limited to, figure 5, 9-10b, col. 17, lines 45-65).

Regarding claim 3, the additional claimed featured for the interactive content comprises an alert icon is met by the interactive icons on the interactive program guide (figure 1) or icon of the on screen notifications (col. 15, lines 5-22);

the additional claimed feature of providing additional information on the interactive content comprises providing a merchandising opportunity to the user in response to the user selecting of the alert icon is met by providing additional information of the interactive content comprises detail information of the television program or merchandise such as detailed textual description of the program, information about actors and actresses, information about production of the program, production related information, etc. in response to user selecting of the interactive icon (col. 14, line 50-col. 15, line 22; col. 15, lines 47-50; col. 17, line 50-col. 18, line 67, figures 1, 5,6).

Regarding claim 4, the additional claimed feature of the alert icon is overlaid onto the passive video product is met by the interactive program guide or the on screen notification icon is overlaid onto full screen television program (col. 3, lines 55-61; col. 7, lines 20-30; col. 15, lines 4-20).

Regarding claim 5, the additional feature of the interactive content comprises a television program listing is met by television interactive program guide (figure 1, col. 7, lines 19-30) or a title/channel of program that may be of interest to viewer provided as on screen notification (col. 14, lines 48-67);

the further claimed feature of providing additional information on the interactive content comprises providing additional information for the television program listing in response to the user selecting the television program listing is met by providing the entire title and detail description/additional detail description of the program in response to user selecting a particular icon/detail information on the interactive television guide (figure 1 and col. 15, lines 52-64, col. 17, line 45-col. 18, line 67).

Regarding claim 6, the additional claimed feature of the interactive program application is an interactive television guide is met by interactive program guide on screen (10 – figure 1); and the further claimed feature of the branded selectable option is a branded selection menu option of the interactive television guide is met by interactive grid guide and/or interactive ads windows and/or icon/provider on the interactive program guide (figures 1, 5).

Regarding claim 7, Alexander discloses data in the interactive program guide can be downloaded from Internet and displayed on the screen (col. 8, lines 36-64; col. 18, lines

1-67). Inherently, the interactive application is a web browser for displaying the downloaded data.

Regarding claim 8, the further claimed feature of providing the passive video product comprises tuning equipment associated with the user to a television channel is met by providing the television program comprises tuner associated with the viewer to a television channel (col. 7, lines 10-18; col. 30, line 60-col. 31, line 8).

Regarding claim 18, Alexander discloses a method for providing advertisements within an interactive application implemented at least in part on user equipment (figure 1) comprising:

- providing branded passive programming associated with a brand to the user equipment (providing television programming/advertisement associated with CBS, advertiser, FOX, etc. to the viewer equipment –col. 6, line 65-col. 7, line 18, figure 5);

- displaying on the user equipment an alert icon overlaid on the currently displayed branded passive programming that indicates availability of additional information associated with the currently displayed branded passive programming (e.g. displaying on the user display screen an on screen notification/icon/title/channel, etc. overlaid the program being viewed that indicates any number of possible items of information associated with the program being viewed, or indicates the availability of additional information by displaying an detail information icon – figure 1, 3, 6,8 –10b; col. 7, lines 19-30; col. 14, line 48-col. 15, line 31; col. 17, col. 17, line 40-col. 18, line 67);

providing a user associated with the user equipment with an opportunity to select the alert icon to indicate a desire to access additional information associated with the branded passive programming (providing a viewer associated with the user television equipment with an opportunity to select the on screen notification/icon/channel, title, detail icon, or any icon on the screen display using remote control device and user interface to indicate a desire to access additional information associated with the program – col. 17, lines 48-67, col. 18, lines 33-67);

providing an interactive display on the user equipment in response to the user selection, wherein the display comprises an advertisement associated with the brand of the currently displayed branded passive programming (e.g. providing an interactive display such as another interactive program guide display that comprises selected/highlighted icon, or web site, or advertisements in response to user selection/highlight of an icon, a program, an ad, etc. wherein the new display screen comprises a new advertisement (i.e. video clip, detail description, website, chat room, etc) associated with the brand of program currently displayed – see including, but are not limited to, col. 17, lines 48-67; col. 18, line 33-col. 19, line 45; col. 19, line 62-col. 20, line 12, col. 26, line 57-col. 27, line 2; col. 34, line 10-col. 35, line 18).

Regarding claim 19, the further claimed feature of the passive programming is a television program, a commercial, a pay per view program, or a passive video product segment is met by a television program displayed on PIP window or advertisement displayed in ads windows 14, 16 – figure 1).

Regarding claim 20, the further claimed feature of retrieving the advertisement is met by retrieving advertisement in ad window, or on screen notification, or retrieving additional information of a program (see include, but are not limited to, col. 17, line 50-col. 18, line 67).

Regarding claim 21, the further claimed feature of retrieving an advertisement according to a schedule is met by retrieving on screen notification a certain amount of time before the program begin or retrieving particular advertisement according to particular program displayed on the screen (col. 25, line 50-col. 26, line 60; col. 33, lines 26-65).

Regarding claim 22, the further claimed feature of retrieving an advertisement according to a real time flag is met by retrieving among other things, additional information about the particular event involving the astronauts according to an event involving astronauts described by news broadcaster while watching the news program (col. 18, lines 54-67).

Regarding claim 23, the additional claimed limitations correspond to the additional limitations as claimed in claims 7, and are analyzed as discussed with respect to the rejection of claim 7.

Regarding claim 24, Alexander further discloses the interactive application is an interactive television program guide (interactive program guide – figure 1); and

providing the advertisement in the interactive application display comprises providing the advertisement as a panel advertisement (Ad windows or Grid guide) in the interactive television program guide (interactive program guide) – figure 1.

Regarding claims 29, 31-36, 46-52, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1, 3-8, 18-24, and are analyzed as discussed with respect to the rejection of claims 1,3-8, 18-24.

Regarding claims 57, 59-64, 74-80, the limitations of the system as claimed correspond to the limitations of the method as claimed in claims 1,2-8, 18-24, and are analyzed as discussed with respect to the rejection of claims 1,2-8, 18-24.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Noguchi et al. (US 6,034,677) discloses method and apparatus for displaying an electronic program guide.

Goldman (US 6,928,652) discloses method and apparatus for displaying HTML and video simultaneously.

Florin et al. (US 5,583,560) discloses method and apparatus for audio-visual interface for the selective display of listing information on a display.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

August 30, 2006

A handwritten signature in black ink, appearing to read 'Son P. Huynh', with a long horizontal line extending from the bottom left.